

## Commodity Futures Trading Commission

## § 32.12

impliedly to represent that the Commission, by declaring effective the registration of such person or otherwise, has directly or indirectly approved such person, or any commodity option transaction solicited or accepted by such person;

(b) Any person in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction expressly or impliedly to represent that compliance with the provisions of this part constitutes a guarantee of the fulfillment of the commodity option transaction;

(c) Any person, upon receipt of an order for a commodity option transaction, unreasonably to fail to secure prompt execution of such order.

### § 32.9 Fraud in connection with commodity option transactions.

It shall be unlawful for any person directly or indirectly:

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever; in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction.

### § 32.10 Option transactions entered into prior to the effective date of this part.

Nothing contained in this part shall be construed to affect any lawful activities that occurred prior to the effective date of this part.

### § 32.11 Suspension of commodity option transactions.

(a) Notwithstanding any other provision of this part 32, it shall be unlawful on and after June 1, 1978, until further rule, regulation or order of the Commission, for any person to solicit or accept orders for, or to accept money, securities or property in connection with, the purchase or sale of any commodity option, or to supervise any person or persons so engaged.

(b) The provisions of paragraph (a) of this section shall not apply to any commodity option transaction conducted in accordance with the provisions of § 32.4(a) of this part, or any commodity option transaction conducted on or subject to the rules of a contract market or a foreign board of trade in accordance with the provisions of section 4c of the Act and any rule, regulation or order promulgated thereunder.

(c) Nothing in this section shall apply to, or affect the rights, privileges or obligations of any person arising out of any commodity option transaction entered into prior to June 1, 1978.

(7 U.S.C. 2, 6c(a), 6c(b) and 12a (1976); secs. 2(a)(1), 4c(a)-(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)-(d), 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b))

[43 FR 16161, Apr. 17, 1978, as amended at 52 FR 29003, Aug. 5, 1987]

### § 32.12 Exemption from suspension of commodity option transactions.

(a) The provisions of § 32.11 shall not apply to the solicitation or acceptance of orders for, or the acceptance of money, securities, or property in connection with, the purchase or sale of any commodity option on a physical commodity granted by a person domiciled in the United States who, on May 1, 1978, was both in the business of granting options on a physical commodity and in the business of buying, selling, producing, or otherwise utilizing that commodity, if all of the following conditions are met at the time of the solicitation or acceptance:

(1) The grantor has a net worth of at least \$1,000,000;

(2) Under the express contractual terms of each option offered by the grantor (or under such terms and conditions as are found satisfactory to the Commission which would provide option customers substantially equivalent financial protection), the grantor is liable jointly and severally with any person that sells its options to an option customer for all damages sustained by any option customer in connection with the offer and sale of an option as the result of any unlawful act or omission or any breach of contract